

**THE INDIANA CIVIL RIGHTS COMMISSION
311 West Washington Street
Indianapolis, Indiana 46204**

**STATE OF INDIANA)
) SS
COUNTY OF MARION)**

**MABEL JEAN JOYNER,
Complainant,**

**DOCKET NO. 06688,
EEOC NO. TINS-1216**

v.

**HOWARD COMMUNITY HOSPITAL
KOKOMO, INDIANA,
Respondent.**

FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ORDER

On June 3, 1980, R. Davy Eaglesfield, III, Hearing Officer in the above cause, entered his recommendation. Neither party has filed objections to that recommendation within the ten (10) day period prescribed by IC 4-22-1-12 and Ind. Admin. R. and Reg. §(22-9-1-6)-35 (A).

Having duly advised in the premises, the Commission hereby adopts as its final Findings of Fact, Conclusions of Law, and Order those recommended in the Hearing Officer's Recommended Findings of Fact, Conclusions of Law, and Order, which is attached hereto incorporated by reference herein.

Dated: June 20, 1980

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Respondent.

RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ORDER

This cause came on for hearing to the Indiana Civil Rights Commission, R. Davy Eaglesfield, III, Hearing Officer, on April 2, 1980; Complainant Mabel J. Joyner was present in person and by counsel Alice Craft. Respondent Howard Community Hospital, Kokomo, Indiana, was present by George Banjak, Executive Director of Howard Community Hospital, and by counsel D. Reed Scism and Stephen M. Jessup. The Hearing Officer having duly heard the evidence and being duly advised in the premises, now enters his recommended Findings of Fact, Conclusions of Law, and Order as follows:

FINDINGS OF FACT

1. The issue, as stipulated by the parties, is:
 “Did Howard Community Hospital engage in an unlawful discriminatory practice (race or sex) by dividing the functions performed by the Department of Environmental Services, of which Complainant had been director, and by assigning her to be Laundry Manager?”

2. Complainant was appointed Executive Housekeeper in charge of both housekeeping and laundry and linen by George Banjak, present Executive Director of Howard Community Hospital (the Hospital) in 1965 soon after he came to the Hospital as Executive director.
3. Around 1969 at Complainant's suggestion, housekeeping and laundry and linen were re-titled "Department of Environmental Services "and Complainant's title was changed to Director of Environmental Services.
4. In 1973 and 1974, the turnover in the Department of Environmental Services had become excessive.
5. The morale in the Department of Environmental Services was low in 1974.
6. Complainant herself was almost totally unhappy with her situation in 1974 and stated frequently that she "hated to come to work".
7. In 1974, Complainant complained repeatedly about lack of cooperation from other department heads.
8. In 1974, Complainant complained often about Mr. Douglass and requested that she and her department be removed from Mr. Douglas's supervision and that she be allowed to report directly to Mr. Banjak.
9. Surgery was not given routine terminal cleanings on a weekly basis during much of 1974 even though Complainant agreed that it should be terminally cleaned weekly and that terminal cleaning of surgery "would take priority over any other thing".
10. Surgery rooms were only being terminally cleaned following isolation cases in the last half of 1974.
11. The hospital's administration was advised in 1974 that physicians were complaining regarding the cleanliness of the surgery area and that physicians were taking their cases to other hospitals because of the "dirty" condition of the surgery area.
12. In 1974, many complaints regarding the services or lack of services provided by the Department of Environmental Services were directed to William Douglass Deputy Director in charge of the General Services Division, which included the Department of Environmental Services.

13. The Director of Nursing in 1974 was unable to resolve problems between the departments in her division and the Department of Environmental Services with Complainant and, therefore, began addressing her complaints to Mr. Douglass.

14. Nursing is the Hospitals largest single division and employed about half of the hospitals employees in 1974.

15. Complainant considered Nursing to be her "enemy".

16. Complainant had numerous personal problems in 1974 which was a "bad" year for her, and she was not "mentally or physically able to handle any more criticism".

17. In 1974, the size of Complainant's staff was comparable to that of similar sized facilities.

18. Complainant failed to submit her 1973 annual report in 1974 on time even though she knew the date the report was due and had been submitting annual reports on the same format for many years.

19. As early as 1969, the Hospital's administration had considered the possibility of splitting the Department of Environmental Services.

20. Effective February 1, 1975, the Department of Environmental Services was split into the Laundry and Linen Department and the Housekeeping Department. and the Housekeeping Department.

21. The decision to split the Department of Environmental Services and assign Complainant to the Laundry and Linen Department was made by Mr. Douglass and approved by Mr. Banjak.

22. Complainant was assigned to be manager f the Laundry and Linen Department following the split because most of the problems were in housekeeping and because in the Laundry and Linen Department her contact with other department heads would be reduced.

23. At the time of the split and for yours after, the position of Executive Housekeeper and Manager (later Director) of Laundry and Linen were of equal rank.

24. The Hospital has reorganized numerous other departments and operations over the years and the other reorganizations were handled in the same manner that the split in the Department of Environmental Services was handled.
25. The Department of Environmental Services was split and Complainant was assigned to the Laundry and Linen Department for legitimate business purposes in the interests of operating the Hospital efficiently and effectively.
26. Neither the race nor the sex of Complainant was a consideration in the decision to split the Division of Environmental Services or in the assignment of Complainant to the Laundry and Linen Department.
27. The first Executive Housekeeper after the split was a white female, who was succeeded after about two years by a black male who remained in the job for about one and one-half years.
28. After the split, the man hours paid for housekeeping work decreased while the area cleaned increased substantially.
29. The housekeeping expense, measured in 1978 dollars, also decreased after the split although the areas cleaned increased.
30. After the split, employee turnover in Housekeeping decreased markedly.
31. Complainant's salary was not reduced as a result of the split.
32. Complainant's annual increases after the split would have been no greater, based on the same performance, if she had been executive Housekeeper.
33. Complainant was reimbursed for expenses incurred attending job related seminars both before and after the split in accordance with Hospital policy and applicable law.
34. The Hospital paid Complainants dues in job related professional associations both before and after the split in accordance with Hospital policy.
35. Complainant was not at any time active in any way in behalf of any union.
36. The Hospital, as a governmental hospital, is not subject to the National Labor Relations Act (NLRA) nor was it subject to the NLRA prior to 1974.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties.
2. The Complaint was timely filed.
3. Howard Community Hospital is a "person" as defined in IC 22-9-1-3(a).
4. Howard Community Hospital is an "employer" as that term is defined in IC 22-9-1-3(h).
5. The Complainant has failed to sustain her burden of proving that her treatment by the Hospital was due to racial discrimination.
6. The Respondent did not violate the Indiana Civil Rights Act by discriminating against Complainant on the basis of her race.
7. Howard Community Hospital did not engage in an unlawful discriminatory practice (race or sex) by dividing the functions performed by the Department of Environmental Services of which Complainant has been director, and by assigning her to be Laundry Manager.
8. Complainant is entitled to no relief pursuant to her complaint and the complaint of Mabel Jean Joyner should be dismissed.

RECOMMENDED ORDER

The Complainant shall take nothing by way of her complaint and the complaint of Mabel J. Joyner shall be and hereby is dismissed.

Dated: June 3, 1980